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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/801,495	03/08/2001	Christopher Keith	IVEN125466	4755
52531 7590 04/20/2007 CHRISTENSEN O'CONNOR JOHNSON KINDNESS PLLC 1420 FIFTH AVENUE SUITE 2800 SEATTLE, WA 98101-2347			EXAMINER WEISBERGER, RICHARD C	
			ART UNIT	PAPER NUMBER
			3693	
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		04/20/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

09/801,495

Applicant(s)

KEITH, CHRISTOPHER

Examiner

Richard C Weisberger

Art Unit

3624

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 1-17-2007.
- 2a) ☒ This action is **FINAL**. ~~2b) ☒ This action is non-final.~~
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 10-14, 17-20 and 31-48 is/are pending in the application.
- 4a) Of the above claim(s) is/are withdrawn from consideration.
- 5) ☐ Claim(s) is/are allowed.
- 6) ☒ Claim(s) 10-14, 17-20 and 31-38 is/are rejected.
- 7) ☐ Claim(s) is/are objected to.
- 8) ☐ Claim(s) are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. .
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date .
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. .
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: .

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Claim Rejections - 35 USC § 112

2. Claims 10-14, 17-20 and 31-48 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In the claims a computer having a selection component operable by a user to select a set of conditional rules from a plurality of sets of conditional rules, wherein each set of conditional rules is implemented in a separate order-handling program that is executable by the computer, said order-handling program being configured to route orders to at least one of a plurality of markets is vague and indefinite. To begin, it is not clear if the user is the trader or the exchange. Second, the set of conditional rules are not vague and indefinite in that it is not clear this set of rules is displayed to the user or if this set of rules is that of the user. Also, in the claims the limitation a decision table that provides a facility for defining conditions to occur and a facility for defining actions to be taken is vague and indefinite. Up to this point the user has chosen only a set of conditional rules. What is the relationship between the conditional rules and the conditions to occur and the actions to be taken. Further in the claims, what is the relationship between the conditional rules or the user and the “information provision” of the plurality of markets. Also, the limitation “relationships represented by a set of codes” continues to be indefinites as the relationship between the users selection if a set of conditional rules and the routing of the order represented by a respective codes is vague and indefinite. The applicants remarks the this language is “believed to be definite” is not persuasive.

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Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 10 rejected under 35 U.S.C. 102(e) as being anticipated by PCT/US00/10803.

5. To the extent that the claims can be understood, the reference teaches the limitations of claims 10 and 31 (page 4, lines 19+, figure 9). Further, it teaches the element of claim 11 (figure 9/704-706). It further teaches claim 12 to which the examiner reads “codes” to be rules and conditions of the exchanges. The examiner takes official notice that exchanges set forth rules and condition for front end software providers. It further teaches the invention of claim 13 and 14 (page 14, lines 19-31). The reference teaches the inventions of claims 17-20 including the discovery strategy and action strategy read which read on a the subject matter discussed at page 15, ll. 26-32. The applicant’s main argument. The applicant argues that it should be understood that a user's decision to designate a triggering condition for an order (e.g., a threshold price for a limit order) does not constitute selecting a set of conditional rules from a plurality of sets of conditional rules, wherein each set of conditional rules is implemented in a separate order-handling program that is executable by the computer, said order-handling including routing orders to at least one of a plurality of markets. The applicant is reminded that claims must be read given their broadest reasonable interpretation. The term routing control for orders lack any industry accepted meaning and a set of rules directed to a limit order (particularly when read in the light if REG NMS to which the examiner takes Official Notice) falls well inside the scope of this limitation.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Richard C Weisberger whose telephone number is 571 272 6753. The examiner can normally be reached during the hours of maxiflex.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Kramer can be reached on 571 272 6783. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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Richard C Weisberger
Primary Examiner
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